



MUNICIPALITY OF **West Elgin**

Staff Report

Report To: Council Meeting
From: Heather James, Planner
Date: 2022-06-09
Subject: Bill 109 Review of Provincial Changes

Recommendation:

That West Elgin Council hereby receives the report from Heather James regarding Bill 109 Review of Provincial Changes;

And that West Elgin Council hereby directs Administration to complete a review of the Official Plan Amendments, Zoning By-law Amendments and Site Plan Control processes before the additional legislation comes in to effect as of January 1, 2023.

Purpose:

To provide Council with information on Bill 109, *More Homes for Everyone Act, 2022* in relation to possible Official Plan and/or Zoning By-law Amendments in response to the new legislation.

Background:

The province of Ontario introduced Bill 109 on March 30, 2022 and it was passed in the legislature and received royal assent on April 14, 2022. Bill 109 Schedules 1, 2 and 5 made changes to the Planning Act, the City of Toronto Act, 2006 and the Development Charges Act, 1997, including the following:

- Changes to zoning, plan of subdivision and site plan application processes to expedite approvals and incent timely decisions
- Ensure provincial housing policies are implemented and priority projects are expedited by making changes to provide the Minister of Municipal Affairs and Housing with new tools to address dispute resolution; and
- Enhance transparency and increase certainty of development costs through changes to development-related charges.

Financial Implications:

There is the potential for financial implications for planning applications revenue, as explained in the report below.

Policies/Legislation:

Refund of Application Fees

Section 34 of the *Planning Act* is amended to include new rules that require municipalities to refund application fees if a decision on a site plan application, zoning by-law amendment (ZBA) or

combined zoning by-law amendment and official plan amendment (OPA) is not made within the legislative timeline, as described below:

- 50% of the fee if the decision is not reached within 90 days (or 120 days if associated with an official plan amendment application) from the date the municipality received the complete application and fee,
- 75% of the fee if the decision is not reached within 150 days (or 180 days if associated with an official plan amendment application) from the date the municipality received the complete application and fee,
- 100% of the fee if the decision is not reached within 210 days (or 240 days if associated with an official plan amendment application) from the date the municipality received the complete application and fee

The change to require a gradual refund of zoning by-law amendment application fees will apply to all applications received on or after January 1, 2023.

The refunds and timeframes for planning approvals does not take into account delays from the applicant, the public, public agencies or provincial ministries. West Elgin staff will need to account for legislative timelines when determining whether applications are deemed complete to ensure that the applicant has provided sufficient information and to encourage applicants to pre-consult with agencies and ministries on their proposal to avoid delays once the application is deemed complete.

Site Plan Applications

Bill 109 includes five important changes to Section 41 of the Planning Act, which regulates site plan control:

1. As of July 1, 2022, municipalities will be required to delegate site plan approval to staff.
2. As of July 1, 2022, the timeline to provide site plan approval will be extended from 30 to 60 days.
3. Municipalities are now required to use the complete application requirements applicable for other planning act applications such as OPA and ZBA for site plan applications.
4. Municipalities may pass a by-law requiring pre-consultation prior to submission of a site plan application.
5. The changes require municipalities to gradually refund site plan control application fees if an approval is not made within the following legislated timelines:
 - 50% of the fee if the decision is not made within 60 days from the date the municipality received the complete application and fee
 - 75% of the fee if the decision is not made within 90 days from the date the municipality received the completed application and fee, and
 - 100% of the fee if the decision is not made within 120 days from the date the municipality received the complete application and fee.

The change to require a gradual refund of site plan application fees will apply to all applications received on or after January 1, 2023.

By-law 2021-36, the municipality's Site Plan Control Area By-law, site plan approval has been delegated to the Municipal Planner. The municipality also has a Pre-Application Consultation By-law which requires Applicants to consult with the Municipality prior to submitting plans and drawings for approval.

Plan of Subdivision Applications

The revisions establish a one-time discretionary authority to permit municipalities to reinstate draft plan of subdivision that have lapsed within the past five years without the need for a new application. This authority only applies where no agreements of purchase and sale had been entered into prior to the lapsing of the draft plan of subdivision. The revisions also establish regulation-making authority for the province to prescribe what can and/or cannot be required as a condition of draft plan of subdivision approval.

West Elgin has no outstanding draft plan of subdivisions that meet these criteria.

Minister Authority Regarding Official Plans

The changes provide the Minister of Municipal Affairs and Housing with discretionary authority to suspend the time period for the Minister to make a decision on official plans and amendments. For official plans and amendments before the Minister on March 30, 2022 the following are suspended:

- the ability to appeal in respect of the Minister's failure to make a decision where the 120-day time period has expired prior to March 30, 2022 and no appeals have been filed prior to that date, and
- the 120-day time period for those matters that are still within the 120-day time period on March 30, 2022.

The changes also give the Minister discretionary authority to refer all or part(s) of an official plan matter to the Ontario Land Tribunal (OLT) for a recommendation and forward an official plan matter to the OLT to make a decision.

There will be no changes to West Elgin planning processes as a result of this change.

Minister Order at Request of Municipality – Community Infrastructure and Housing Accelerator

The changes establish a new Minister's authority to respond to municipal council resolutions requesting expedited zoning assistance from the Province. The Province will issue guidelines governing the scope of how this authority may be used. Provincial plans, the Provincial Policy Statement and municipal official plans do not apply to the Minister's order. The requesting municipality is responsible for providing public notice, undertaking public consultation and ensuring the order is made available to the public.

In issuing an order, the Minister can provide exemption for other necessary planning related approvals if requested by the municipality and impose conditions on the municipality and/or the proponent. The Minister could amend an order at the request of the municipality or could revoke or amend an order at any time at their own discretion, without having to undertake consultation or provide notice. The Minister's order would not be subject to appeal.

To date, West Elgin has not requested a Minister's zoning order; however, should the need arise, this tool can be quite beneficial and it is hoped such need will not arise until the province issues the guidelines governing the scope.

Development Charges/Parkland Dedication/Community Benefits Charges

The revisions to development-related charges are intended to create more transparency on behalf of municipalities, including posting development-related charges on websites, a five-year review of

Community Benefits Charges (CBCs) after a municipality has created CBCs and tiered alternative development charge rates for Transit Oriented Development.

To date, West Elgin does not have a development charges by-law or process in effect.

Municipality of West Elgin Official Plan

The Municipality of West Elgin Official Plan, which was adopted by West Elgin Council in 2008 and approved with modifications by the Ministry of Municipal Affairs and Housing in 2013 does not contain any policies in accordance to Planning Act legislation for planning applications, specifically Official Plan Amendments, Zoning By-law Amendments, Site Plan Control and Plans of Subdivision. Elgin County is the approval authority for Official Plan Amendments and Plan of Subdivision applications.

As part of the new Official Plan, policies in accordance to Planning Act legislation for planning applications will be included.

Report Approval Details

Document Title:	Bill 109 Review of Provincial Planning Changes - 2022-23-Planning.docx
Attachments:	
Final Approval Date:	Jun 7, 2022

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott